## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Force	☑ Discourt.	☐ U.S.
Trevor Hackett		Squad #8	202000210	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Tuesday, 01/07/2020 9:25 PM		§ 87(2)(b)		114	7/7/2021	2/21/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	e Received at CCI	RB
Thu, 01/09/2020 5:23 PM		CCRB	On-line website	Thu, 01/0	9/2020 5:23 PM	
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addr	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Michael Calle	14724	951581	INT CIS			
2. POM Ignacio Delrio	21908	952661	INT CIS			
3. SGT William Larkin	04957	930534	INT CIS			
4. POM Michael Alpers	18406	958234	PSA 9			
5. POM Frank Ryan	21262	952201	INT CIS			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. Officers						
2. An officer						
3. POF Wendy Amaya	11316	953635	PSA 8			
Officer(s)	Allegatio	on		Inve	estigator Recon	nmendation
A.SGT William Larkin	Abuse: S	ergeant William Larkin	stopped § 87(2)(b)			
B.POM Michael Calle	Abuse: I	Detective Michael Calle	frisked § 87(2)(b)			
C.POM Michael Calle	Abuse: P	Abuse: Police Officer Michael Calle searched § 87(2)(b)				
D.POM Ignacio Delrio	Abuse: I	Detective Ignacio Delrio	frisked § 87(2)(b)			
E.POM Ignacio Delrio	Abuse: Police Officer Ignacio Delrio searched §87(2)(b)					
F.POM Michael Alpers	Discourtesy: Police Officer Michael Alpers spoke discourteously to \$87(2)(b)					
G.SGT William Larkin	Abuse: S which § 8	ergeant William Larkin 7(2)(b) was an occu		e in		
H.SGT William Larkin	Abuse: S which § 8	ergeant William Larkin (2)(b) was an occu		e in		
I.POM Frank Ryan	Abuse: P	Police Officer Frank Rya (2)(b) was an occu		ele in		
J.POM Michael Calle		Police Officer Michael Covith a business card.	Calle failed to provide	e § 87(2) (b)		
§ 87(4-b), § 87(2)(g)						
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Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

## **Case Summary**

Case Summary
On January 9, 2020, \$87(2)(b) filed this complaint via the CCRB website on behalf of himself and his father, \$87(2)(b)
was walking to a car he had borrowed, which was parked in front of 2-54 27th Avenue in Queens, when he was approached by Police Officer Michael Calle, Police Officer Ignacio Delrio, Sergeant William Larkin, and Police Officer Frank Ryan, all the Queens North Field Intelligence Office. \$\frac{37(210)}{27(210)}\$ by PO Calle (Allegations A – Abuse of Authority, \$\frac{37(210)}{27(210)}\$ PO Calle frisked and searched \$\frac{37(210)}{27(210)}\$ During this time, Police Officer Marcos Benlorenzo, Police Officer Michael Alpers, Police Officer Otniel Figueroa, Police Office Sazib Ahmed, Police Officer Anthony Pastore, Police Officer Eric Zeplin, PO Jagdev Singh, PO Christopher Singh, all of PSA 9, as well as Police Officer Una Segota and Police Officer Andrew Taub of the 114th Precinct, arrived at the location. Additionally, \$\frac{37(210)}{37(210)}\$ sparents, \$\frac{37(210)}{37(210)}\$ got into an argument with Police Officer Wendy Amaya of PSA9, who said to \$\frac{37(210)}{37(210)}\$ Sgt. Larkin, PO Ryan, and Police Officer Wendy Amaya of PSA9 searched the vehicle \$\frac{37(210)}{37(210)}\$ Several minutes later, PO Ryan searched the vehicle again (Allegation H and I – Abuse of Authority, \$\frac{37(210)}{37(210)}\$ with a business card (Allegation J – Abuse of Authority, \$\frac{37(210)}{37(210)}\$ with a
No summons or arrest resulted from this incident.
Body Worn Camera footage was obtained from PO Calle, PO Benlorenzo, PO Singh, PO Alpers, PO Figueroa, PO Amaya, PO Ahmed, PO Pastore, PO Zeplin, PO Christopher Singh, PO Jagdev Singh, PO Segota, and PO Taub. That footage is in IAs #63 – 77, 97, and summarized in IAs #79 ( <b>Board Review 01-17</b> ). The BWC footage only partially captures this incident.
Findings and Recommendations
Allegation A: Abuse of Authority – Sergeant William Larkin stopped (\$37(2)(5))  It is undisputed that the location was known to have a high occurrence of gang related shootings and other violent crimes. It is further undisputed that PO Calle, PO Delrio, Sgt. Larkin, and PO Ryan approached (\$337(2)(5))  as he was entering a car through the front passenger side door of a car.
testified that he had just left his cousin's apartment building, located at all all all all all all all all all

**CCRB Case # 202000210** 

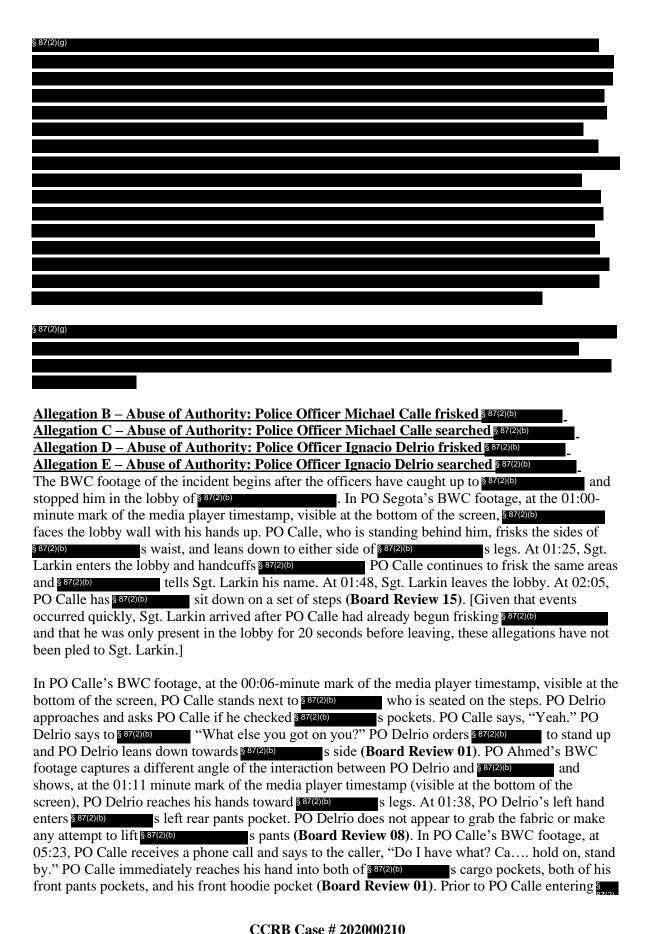
said he walked around the car, opened the front passenger door, and bent down slightly to enter the car. The white vehicle drove onto the sidewalk and stopped behind him. \$\frac{87(2)(b)}{100}\$ thought the occupants of the white vehicle were going to harm him, so he decided not to enter the car and closed the door. The white vehicle drove towards \$\frac{87(2)(b)}{100}\$ on the sidewalk, and he fled on foot in the opposite direction ( <b>Board Review 18</b> ). Attempts to contact \$\frac{87(2)(b)}{100}\$ for additional details regarding this aspect of the incident were unsuccessful (see IAs for contact attempts).
Sgt. Larkin stated he, PO Calle, PO Delrio, and PO Ryan were in a white unmarked sedan conducting surveillance in the Astoria Houses regarding the persistent crime conditions such as car thefts, shootings, and other violent crimes, committed by feuding gangs in rival housing developments. All the officers observed walk out of one of the buildings at the Astoria Houses Development, and down a dark sidewalk which was to the right of the officers' vehicle and a few car lengths away. As walked, he stopped to look at multiple cars, as if he was trying to both get rid of something and get into a car. was appeared nervous and frantic. He pulled on the handles of two cars' doors. was carrying a black plastic bag, which appeared to contain something heavy. Based on Sgt. Larkin's prior arrests of individuals carrying bags, and how heavy the bag looked, he believed the bag could have contained a firearm, though he did not observe any outline or shape in the bag that indicated this. It did not appear that was concealing any weapon underneath his clothing. After observing was concealing any weapon underneath his clothing. After observing was concealing any deapon underneath his clothing. After observing something between 30 to 60 seconds, Sgt. Larkin observed him approach a car, open the front passenger side door, throw the black bag inside, and close the door. Sgt. Larkin stated that he and the officers collectively decided to stop something and verbally identified themselves as police officers.
PO Calle said officers first observed \$87(2)(b) emerge into the street from an unlit area between two parked cars before returning to the sidewalk. \$87(2)(b) walked westbound on 27th Avenue and walked very close to, and looked inside of, approximately five cars. He did not stop at or make contact with these cars. PO Calle believed \$87(2)(b) s behavior was consistent with someone who intended steal a car or steal something from inside a car. \$87(2)(b) ultimately stopped at the passenger side of one car and PO Calle, who had pulled into a parking lot to observe \$87(2)(b) saw him holding a black plastic bag which was "balled up" and tied off at the top, and which was approximately the size of one's palm. PO Calle did not suspect the bag contained a weapon or narcotics. PO Calle stated that the officers approached \$87(2)(b) with the intention of having a conversation but that his flight from the location raised his suspicion and was a factor in stopping \$87(2)(b) (Board Review 20).
PO Delrio stated that after the officers observed \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ step into the street and then back onto the sidewalk, \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ ducked behind a blue sedan. The officers pulled into the driveway of a parking lot next to \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ and PO Ryan and PO Calle identified themselves. PO Delrio observed \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ leaning into the car through the open rear passenger door. This led PO Delrio to believe that \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ was "possibly" breaking into the car. When \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ fled, PO Delrio pursued him behind PO Calle and Sgt. Larkin. Prior to this, PO Delrio did not observe \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ carrying anything or making any observation that indicated that he was carrying a weapon. PO Delrio's view of \$\frac{\sigma(2)(0)}{\sigma(2)(0)}\$ was partially obstructed by other officers when PO Delrio was in the police vehicle ( <b>Board Review 21</b> ).

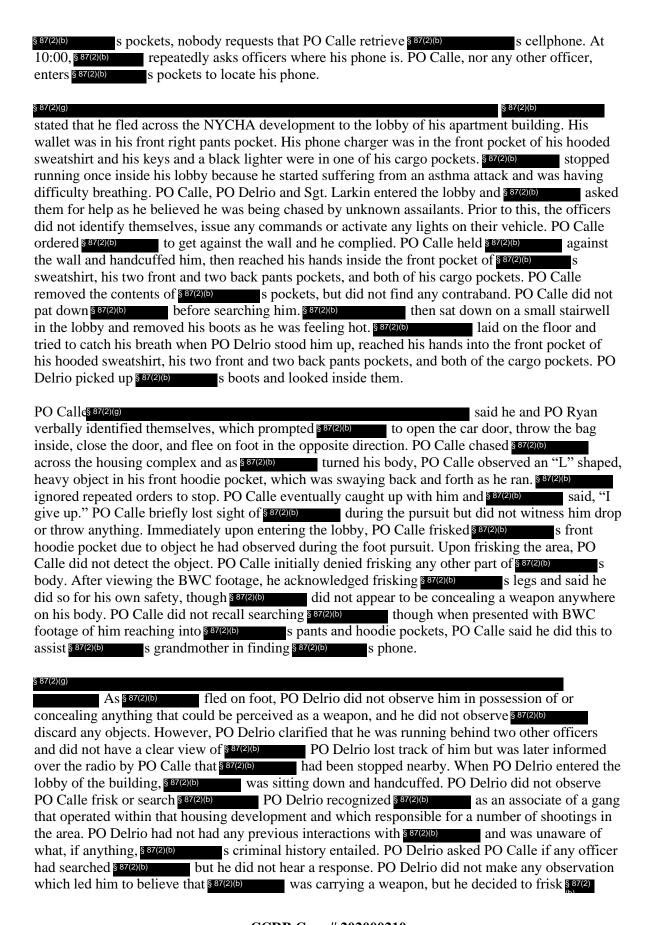
PO Ryan said the officers observed \$87(2)(b) walking into the street as if to approach the
driver's side of a car. He looked at the officers' vehicle before returning to the sidewalk. As
walked along several cars, he looked at them as he passed. PO Ryan believed this was
suspicious because when someone normally walks on the sidewalk, they look in front of them
instead of at the cars next to them. § 87(2)(b) did not duck behind any of the cars or appear
to hide from officers. PO Ryan did not recall if \$87(2)(b) stopped at or contacted any of the
cars and he did not recall if he was carrying anything or if he appeared to be concealing a weapon.
ultimately stopped at one car. The officers pulled into a driveway next to him and
identified themselves. [887(2)(b)] opened the passenger side door, and "gestured" as though
he was throwing or placing an object inside the car, though PO Ryan did not see the object itself.
PO Ryan believed \$87(2)(b) "could have" thrown a firearm or narcotics into the car based
on his experience with the crime conditions at that location. PO Ryan stayed with the police vehicle
as \$87(2)(b) ran from the officers, his arms were
not moving back and forth as they normally would when one is running. This, in addition to the
crime conditions specific to the area, led PO Ryan to believe that \$87(2)(b) may have been
holding onto a firearm on his midsection, though PO Ryan did not see this part of \$87(2)(b)
s body ( <b>Board Review 22</b> ).
§ 87(2)(g)
Sgt. Larkin said the
officers collectively intended to stop § 87(2)(b) for possible grand larceny auto and possible
possession of a firearm. PO Calle and PO Ryan said the officers did not initially intend to stop
and instead just wanted to speak with him to evaluate the situation. They said
fleeing the location in addition to PO Calle's observation that he was possibly
carrying a firearm were the factors which led to the stop. PO Delrio said he did not know what PO
Ryan's and PO Calle's intentions were when they attempted to speak with \$87(2)(b) and
did not know if he was being stopped.
and not know it he was being stopped.
s Stop Report, which was prepared by PO Calle, \$87(2)(9)
states that PO Calle observed \$87(2)(b) in an unlit area of the
sidewalk holding a black plastic bag. §87(2)(b) noticed the officers in their vehicle, who
then identified themselves as police officers. \$87(2)(b) opened the passenger door of the car
next to him, threw the bag inside, and fled the location. The report lists the factors which led to the
stop as concealing or possessing a weapon, acting as a lookout, eluded officers, refused multiple
commands to stop, and casing a victim or location. The report notes the period of observation prior
to the stop as 30 minutes (Board Review 23).

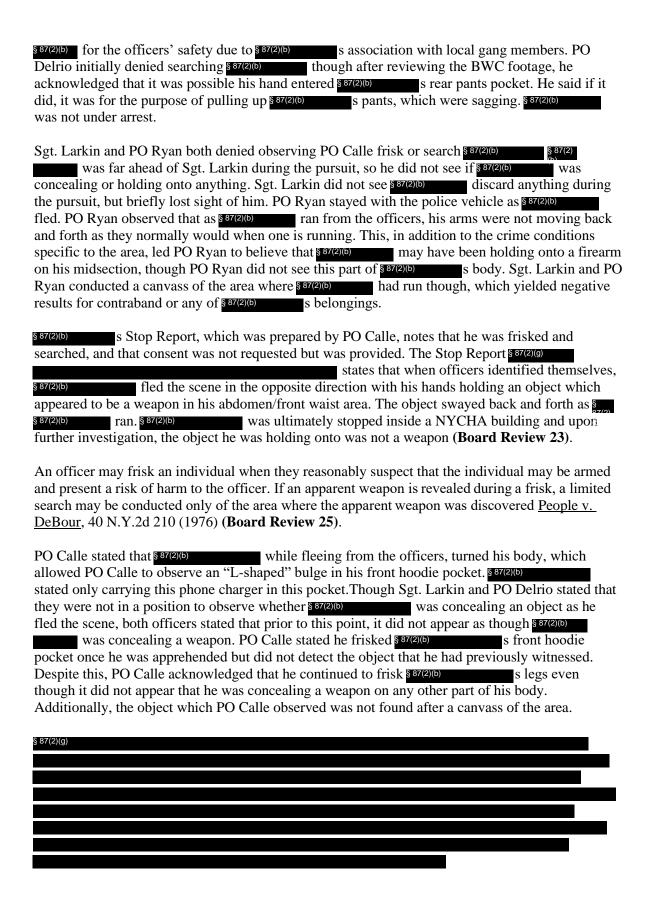
There is no BWC footage of this aspect of the incident.

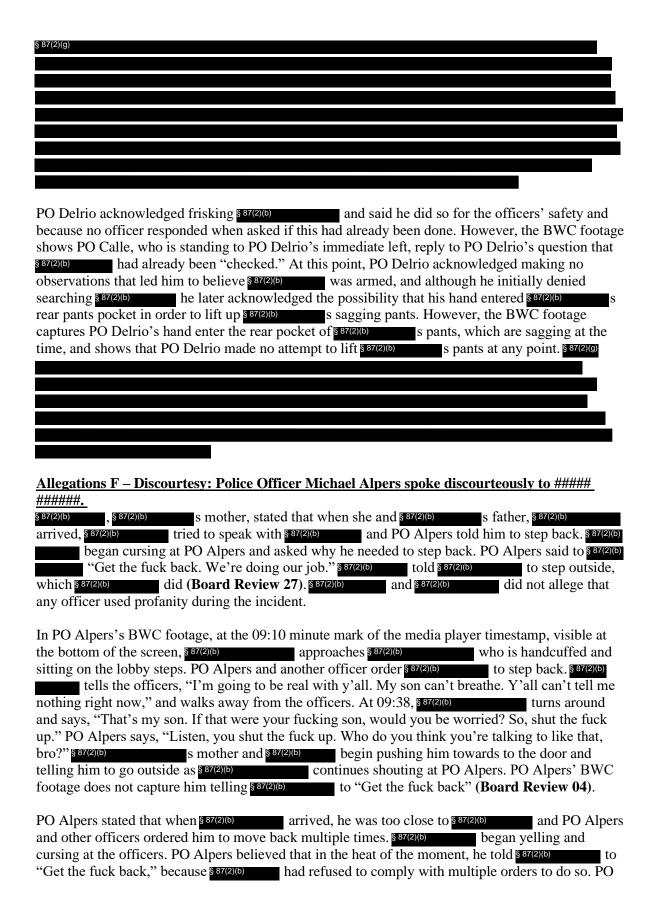
The common-law right to inquire is activated by a founded suspicion that criminal activity is afoot and permits a somewhat greater intrusion in that a policeman is entitled to interfere with a citizen to the extent necessary to gain explanatory information, but short of a forcible seizure. An officer may stop a person when the officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a felony or misdemeanor. People v. DeBour, 40 N.Y. 2d 210, 233 (1976) (Board Review 25).

A defendant's flight in response to an approach by the police, combined with other specific circumstances indicating that the suspect may be engaged in criminal activity, may give rise to reasonable suspicion, the necessary predicate for police pursuit. <u>People v. Parker</u>, 32 N.Y.3d 49 (Board Review 26).







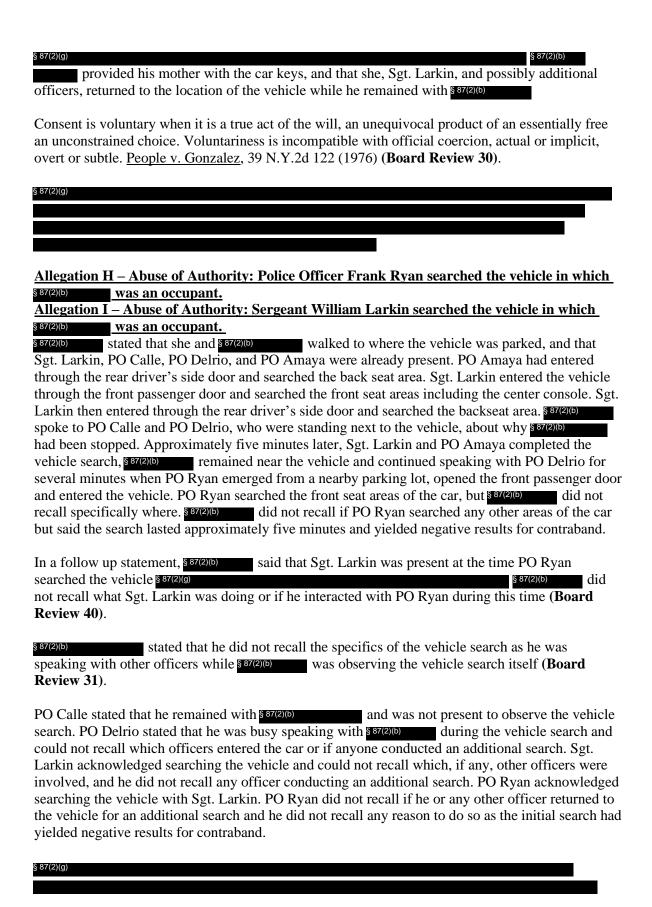


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this remark "in the heat of the moment" and was repeating the statement \$87(2)(b) An officer's use of an impolite word during a stressful street encounter where that officer is attempting to gain control of the situation does not constitute misconduct (DAO-DCT Case #201818951) (Board Review 29). There are approximately five officers standing in the lobby near \$87(2)(b) handcuffed, laying on the ground, and having an asthma attack. In addition to \$87(2)(6) there are several other civilians in the lobby, including §87(2)(b) grandmother, a male individual, and three young woman. At no point do any of these other individuals attempt to antagonize the officers or interfere with their investigation. §87(2)(b) immediately complied with PO Alpers' first and only order to back away from (\$187(2)) § 87(2)(g) , turns around, takes several steps in PO Alpers direction, continues speaking to PO Alpers, and tells him to "Shut the fuck up." However, \$87(2)(b) does not get close to PO Alpers or make any effort to push past or walk around his mother, who is standing in front of him. § 87(2)(b) out of the lobby by his mother and \$27(2)(b) only after PO Alpers' discourteous response, \$287(2)(g) Allegation G – Abuse of Authority: Sergeant William Larkin searched the vehicle in which was an occupant. It is undisputed that PO Calle took \$87(2)(b) outside to the front of the building and sat him in the back of a police vehicle, and that after doing so, a search of the vehicle, which \$87(2)(6) was going to borrow, occurred. There is no video footage of the vehicle search. In PO Calle's BWC footage, at the 38:05 minute-mark of the media player timestamp, visible at the bottom of the screen, \$87(2)(b) is sitting in the back of a police vehicle speaking with PO Calle, and Sgt. Larkin. PO Calle and Sgt. Larkin are standing next to §87(2)(b) he tells her to check his cousin's car because there is nothing in it. PO Calle tells \$37(2)(b) threw a black bag inside the car and fled when officers approached him. At 39:35, says to PO Calle, Sgt. Larkin, and §87(2)(b) "go check the car. There's no black bag inside the car" (Board Review 01). said he provided consent to PO Calle to search the vehicle and that he provided 37(2)(5) with the keys so they could do so. § 87(2)(g) § 87(2)(b) stated that while § 87(2)(b) was in the back of the RMP, she asked him for the car keys, which he provided. \$87(2)(b) then provided the keys to Sgt. Larkin and told him to search the car. Sgt. Larkin stated that \$87(2)(b) was in possession of the car keys and provided officers with verbal consent to search the vehicle. Sgt. Larkin did not document the vehicle search. Sgt. Larkin stated that consent would not have been necessary to search the vehicle as officers had observed throw an object inside of it and therefore, they would have been able to search it anyway. § 87(2)(g)

Alpers also acknowledged saying, "No you shut the fuck up," to \$87(2)(b)

PO Alpers made



CCRB Case # 202000210

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Allegation J – Abuse of Authority: Police Officer Michael Calle failed to provide \$87(2)(b)
with a business card.  \$87(2)(b)  stated that he was not provided with a business card and that he did not request one, \$87(2)(b)  stated that she did not observe any officer provide \$87(2)(b)  with a business card.
PO Calle said he ran out of business cards shortly before the day of the incident, so he could not provide \$87(2)(b) with one. PO Calle said he explained the reason for the stop to \$87(2)(b) and verbally provided him with his name and shield number. PO Calle offered to write this information down for \$87(2)(b) but \$87(2)(b) said it would not be necessary as she knew PO Calle and his team.
In PO Calle's BWC footage, at the 43:30 minute-mark of the media player timestamp, visible at the bottom of the screen, PO Calle escorts \$\frac{87(2)(b)}{2}\$ to an ambulance where he is treated for an asthma attack. At 48:25, PO Calle explains the reason for the stop to \$\frac{87(2)(b)}{2}\$ At 49:25, PO Calle removes \$\frac{87(2)(b)}{2}\$ s handcuffs. An EMT asks PO Calle if his BWC is still on and PO Calle says yes, but that he will deactivate it because \$\frac{87(2)(b)}{2}\$ is no longer being detained PO Calle's BWC is then deactivated. He remains inside the ambulance with \$\frac{87(2)(b)}{2}\$ No further conversation between them is captured ( <b>Board Review 01</b> ).
NYPD Patrol Guide, Procedure 203-09 states officers are required to offer a business card at the conclusion of the following law enforcement activities, except in cases when a summons is issued or an arrest is made, as follows: noncustodial questioning of individuals suspected of criminal activity; a stop where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter; frisk; and/or a search of persons or property, including vehicles. [] Explain reason for law enforcement activities, unless providing this information would impair a criminal investigation, or exigent circumstances are present (i.e., physical resistance, flight, imminent danger of physical injury or damage to property, or other factors make such procedure impractical). If an officer runs out of pre-printed and generic business cards, they should allow member of the public ample time to write down their identification information.
§ 87(2)(g)
§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2	)(g) _		
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		-	_
			-
• т	<u>Civilian a</u> his is the first CCRB complaint	nd Officer CCRB Histories to which \$87(2)(0) has been	a party (Board Review
	1).	nas occi.	a party ( <b>Board Review</b>
		one additional CCRB complaint	and has been named as a
V	ctim of four allegations ( <b>Board</b> o §87(2)(b)	1 Review 35):	
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		service for eight years and has be I 13 allegations, one of which wa	
	o 201214685 involved an	unsubstantiated allegation of a se	earch (of a person) and a
		of a frisk against PO Calle. The Imposed formalized training.	Board recommended
		unsubstantiated allegation of a se	earch (of a person) against
	PO Calle.		11
		service for eight years and has badditional allegations, none of w	
§ 8	7(2)(g)		
a		f service for five years and has be I five additional allegations, two	
5	o Case #201809823 involv	ved substantiated allegations of r	
	discourtesy – word again instructions, which the N	nst PO Alpers. The board recomi	mended Command Level 1
	mstructions, which the iv	M PD imposed.	
		n, Civil and Criminal Histories	<u> </u>
	declined to mediate s of June 15, 2021, the New Yo	e this request. ork City Office of the Comptroll	er has no record of a
N	otice of Claim being filed regar	rding this incident (Board Revie	
• [§	37(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]		
Squad No	.: 13		
Investiga	or: Trevor Hackett	Inv. Trevor Hackett	10/20/2021
<b>3</b>	Signature	Print Title & Name	Date

Squad Leader:	Ethan De Angelo	IM Ethan De Angelo	10/20/2021	
•	Signature	Print Title & Name	Date	